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**AMHERST PLANNING BOARD**  
**Tuesday, September 14, 2021, 6:30 PM**

Pursuant to Chapter 20 of the Acts of 2021, this meeting will be conducted via remote means. Members of the public who wish to access the meeting may do so via Zoom or by telephone. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. A hyperlink to the hearing will be posted on the Town's online calendar.

**VIRTUAL MEETING:** <https://amherstma.zoom.us/j/84225255435>

**I. MINUTES**

**II. PUBLIC COMMENT PERIOD**

**III. ZONING AMENDMENTS**

**A. Zoning Bylaw – Article 7, Parking and Access Regulation – Discussion and vote on recommendation to Town Council**

To see if the Town will vote to amend Article 7, Parking and Access Regulations, by amending Section 7.000, to separate the residential uses into two categories, one of which would require two parking spaces per dwelling unit (one family detached dwellings, two family detached dwellings, town houses and subdividable/converted dwellings) and one of which would require adequate parking (apartments, mixed-use buildings, and accessory dwelling units) and to provide criteria for the Permit Granting Authority to determine what would be considered adequate parking.

**B. Zoning Bylaw – Article 3, Use Regulations, Section 3.325, Mixed-use Buildings and Article 12, Definitions – Discussion and possible re-vote on recommendation to Town Council**

**IV. ELECTION OF OFFICERS AND PLANNING BOARD REORGANIZATION**

**V. OLD BUSINESS**

**VI. NEW BUSINESS**

Topics not reasonably anticipated 48 hours prior to the meeting

**VII. FORM A (ANR) SUBDIVISION APPLICATIONS**

**VIII. UPCOMING ZBA APPLICATIONS**

**IX. UPCOMING SPP/SPR/SUB APPLICATIONS**

**X. PLANNING BOARD COMMITTEE & LIAISON REPORTS**

Pioneer Valley Planning Commission – Jack Jemsek and Alternate

Community Preservation Act Committee – Andrew MacDougall

Agricultural Commission – Doug Marshall

Design Review Board – Thom Long

Community Resources Committee – Christine Brestrup

**XI. REPORT OF THE CHAIR**

**XII. REPORT OF STAFF**

**XIII. ADJOURNMENT**

**AMHERST PLANNING BOARD**  
**Wednesday, August 18, 2021, 6:30 PM**

Pursuant to Chapter 20 of the Acts of 2021, this meeting will be conducted via remote means. Members of the public who wish to access the meeting may do so via Zoom or by telephone. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. A hyperlink to the hearing will be posted on the Town's online calendar.

**MINUTES**

**VIRTUAL MEETING:** <https://amherstma.zoom.us/j/89596638397>

The Minutes of the Planning Board are not intended to be a transcript. The meeting recording is located here: [Planning Board Aug 18, 2021 - YouTube](#)

**PRESENT:** Maria Chao, Jack Jemsek, Chair, Thom Long, Andrew MacDougall, Doug Marshall, Janet McGowan  
**ABSENT:** Johanna Neumann  
**STAFF:** Christine Brestrup, Planning Director  
Pamela Field-Sadler, Administrative Assistant  
Rob Morra, Building Commissioner  
Nate Malloy, Senior Planner  
Ben Breger, Planner  
**OTHERS:** John Wroblewski, Owner - 462 Main Street  
Tom Reidy, Attorney, Bacon Wilson, P.C.  
Kristine Royal, Architect

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**6:34 pm** Chair Jack Jemsek opened the meeting.

**I. MINUTES**

**1. June 16, 2021 Minutes**

The Board reviewed suggested changes to the June 16, 2021 minutes suggested by Ms. Brestrup and Ms. McGowan.

**Motion:** Ms. McGowan made the motion to approve the June 16, 2021 minutes with the amendments suggested by Ms. Brestrup and Ms. McGowan. Mr. MacDougall seconded the motion.

**Roll Call Vote of the Planning Board:**

Chao – yes; Jemsek – yes; Long – abstain; MacDougall – abstain; Marshall – yes; McGowan – yes (6-0-2 motion approved (Absent: Neumann))

**II. PUBLIC COMMENT PERIOD – None**

### **III. PUBLIC HEARING – SITE PLAN REVIEW**

**6:35 PM SPR 2022-02 – 462 Main LLC – Center East Commons – 462 Main Street**  
Request Site Plan Review approval, to amend previous Site Plan Review approval SPR 2020-05, Conditions 1 & 2, for a mixed-use building, under Section 3.325 of the Zoning Bylaw, to remove existing office building, to provide a 12 foot x 16 foot temporary shed for trash/recycling/bikes, provide cluster mailboxes on pedestals, add a connection to the parking lot at 446 Main Street for through access, provide bike rack with no cover, change in management plan to Vertex Real Estate (Map 14B, Parcel 68, B-N zoning district)

**6:45 pm:** Mr. Jemsek opened the public hearing and read the project description; there were no Board Disclosures.

Attorney Tom Reidy, Bacon and Wilson, said he was present along with John Wroblewski and Kristine Royal on behalf of the application for a modification of the existing site plan at 462 Main Street.

Attorney Reidy reminded the Board that significant structural issues have been discovered with the existing office building located on the site. Professionals have concluded that the required interventions would destroy the limited historical character and that the building should be demolished due to the lack of structural integrity.

Attorney Reidy reported that the Historical Commission has approved a demolition permit for the existing building and noted the following items needed for the demo have been completed:

- Demolition contractors have been selected.
- The utilities have been shut off.
- Asbestos remediation has taken place.

Attorney Reidy said that in addition to removing the building, the proposal includes installing a temporary 12' X 16' shed for trash, recycling and interior bike storage, cluster mailboxes and an uncovered bike rack. Additionally Attorney Reidy explained that the applicant has acquired the adjacent property at 446 Main Street; this proposal includes a connecting vehicular access way between the parking areas of the adjacent lots.

Attorney Reidy noted that the residential building has 35 bedrooms included in the 24 units; there are 16 registered vehicles for the residential units. He also noted that the applicant has hired Vertex Real Estate to manage his property.

#### Board Discussion and Questions

There was a brief discussion regarding the retail/commercial space in the mixed-use building. Mr. Wroblewski confirmed that the original plan for tenancy fell through. Although prospective tenants have considered the space, the space remains available.

Ms. Brestrup explained that the driveway connection portion located on the 446 Main Street parcel would come to the Board as a separate application in September. The

driveway connection on the 462 Main Street is the only portion under consideration tonight.

In answering questions from Ms. McGowan, Mr. Wroblewski reported that when he purchased the property the office building was divided into 7 separate rooms and that his plan was to create 3 office suites. Mr. Wroblewski said that through attrition, the building was vacated and he was able to use the first floor space as a project construction office.

Ms. McGowan asked if the building had been inspected at the time of purchase. Mr. Wroblewski said it had been and new beams and areas that had been worked on were pointed out and he thought he would be able to address the floor slant; however, since 2017, the floor slant increased. Mr. Wroblewski had a structural engineer evaluate the building and determined the extent of the loss of structural integrity.

Ms. McGowan asked about the plan for the area vacated by the building. Mr. Wroblewski said he had a plan approved by the Board which includes the office building and a maintenance/trash area to serve the mixed-use building; however, now that he has purchased the adjacent property, Mr. Wroblewski's goal is to develop a comprehensive approach to the design and integration of the adjoining parcels. Mr. Wroblewski said he does not anticipate much change in that area. The parking and transformers would not be relocated and the landscaping would not change much. Ms. McGowan suggested

Mr. Wroblewski said he did not believe either parcel was part of the Dickinson Historical District. Ms. Brestrup agreed, but said she would need to consult a map to confirm. In looking at a map, Attorney Reidy said that neither parcel was in the Dickinson Historical District.

Mr. Jemsek noted that the documents submitted by the Historical Commission and reviewed during the July 28<sup>th</sup> Board meeting fully support the demolition without delay due to the lacking structural integrity of the building.

In answering a question from Ms. McGowan, Ms. Brestrup said that there were two uses on the 462 Main Street property and the Board had determined they were complimentary; there was not a primary and secondary use component.

Public Comment - None

**Motion:** Mr. Long made the motion to close the public hearing for SPR 2022-02 – 462 Main LLC – Center East Commons – 462 Main Street.

Mr. Marshall seconded the motion.

**Vote:** Chao – yes; Jemsek – yes; Long – yes; MacDougall – yes; Marshall – yes; McGowan – yes (6-0-0 motion approved (Absent: Neumann))

### Discussion

Ms. Brestrup suggested that the Board find that the application meets the relevant findings of Section 11.24 of the Zoning Bylaw.

Mr. Jemsek agreed with Ms. Brestrup noting that the plan is more diminutive in the regard that the building would be removed.

Ms. McGowan suggested that the Board could add a condition requiring the applicant to create a more vibrant and useful tenant space in the area of the demolished building. She noted that adding trees in that area would support climate change mitigation.

Mr. Jemsek and Mr. Marshall agreed that the proposed plan is intermediary. Mr. Marshall said the Board could ask that the applicant return to the Board if in the long term he decides not to move forward with a new plan for the adjacent parcels.

The Board briefly discussed whether conditions are necessary. Mr. MacDougall said he supports Mr. Marshall's suggestion. Mr. Jemsek and Mr. Long agreed the application could be approved as presented.

**Motion:** Ms. Chao made the motion to approve SPR 2022-02 – 462 Main LLC – Center East Commons – 462 Main Street as presented finding that the application meets the relevant findings of Section 11.24 of the Zoning Bylaw. Mr. Long seconded the motion.

**Vote:** Chao – yes; Jemsek – yes; Long – yes; MacDougall – abstain; Marshall – yes; McGowan – yes (5-0-1 motion approved (Abstain: MacDougall))

## **IV. ZONING AMENDMENTS**

### **A. Zoning Bylaw – Article 3, Use Regulations, Section 3.325, Mixed-use Buildings and Article 12, Definitions – Discussion and vote on recommendation to Town Council**

To see if the Town will vote to amend Article 12, Definitions, to add a definition of Mixed-use Buildings, to amend Article 3, Section 3.325, Mixed-use Buildings to remove the definition of mixed-use buildings from Section 3.325, to amend the criteria and standards required for mixed-use buildings, to set criteria to limit the amount of residential use and enclosed parking that would be allowed on the first or ground floor, to set a minimum for the amount of non-residential use, other than enclosed parking, that would be allowed on the first or ground floor, to require any dwelling units or enclosed parking on the first or ground floor to be located towards the rear of the building and designed to reduce visibility from the public right of way, to add a requirement regarding the size/bedroom count of units, and to authorize the Permit Granting Authority to determine which floor is to be considered the first or ground floor for sloping lots and lots with multiple frontages.

Mr. Jemsek read the proposed amendment and reminded the Board that the public hearing for this proposal was closed at a previous meeting on July 21, 2021. Ms. Brestrup added that tonight is the opportunity for the Board to discuss the proposal and then vote on a recommendation to the Town Council. Senior Planner Nate Malloy was available to answer any questions.

The Board discussed the proportionate requirements for non-residential uses and any combination of residential use or parking including incidental and associated spaces on the first/ground floor. During the discussion, the following was shared:

- Mr. Jemsek shared his concern regarding the demand for retail and setting non-residential requirements. He is concerned about the possibility of having an abundance of empty storefronts and would like to see greater flexibility in the percentage requirements including the allowance for non-residential uses on other floors and rooftops.
- Mr. MacDougall supports frontage based percentage requirements rather than square foot percentages. Mr. MacDougall said street frontage that is retail friendly and vibrant is a key component. The square footage percentage is going to be widely variable based on the shape of the building. Mr. MacDougall suggested that the lower square footage for non-residential use makes sense as long as strong language that protects the frontage is included. Mr. MacDougall said it's important not to force developers to create spaces that are unusable or cause the residential rates to increase in order to subsidize the non-residential spaces. Mr. MacDougall said he supports recommending the proposal to the Town Council for adoption with the proportions for the first/ground floor as defined, although if there is tremendous Board support for a higher non-residential percentage he would be willing to discuss that.
- Mr. Malloy reminded the Board that the Open Space component was removed from the proposal. He explained that mixed-use buildings would have a new definition in Article 12 with 4 conditions/standards:
  1. Defined proportions of first/ground floor residential, including parking and incidental and associated spaces for residential use, and non-residential use.
  2. Require first/ground floor dwelling units and enclosed parking to be located at the rear of the building and designed in a way to minimize visibility from the public way or walkways.
  3. Address sloping lots or lots with multiple frontages.
  4. Diversify bedroom counts for a 10-plus unit mixed-use building.

Mr. Malloy clarified that upper floors can be used for non-residential use and that this is actually encouraged; however, those uses may not be considered as part of the first/ground floor percentage requirement.

- Mr. Marshall said he does not see the need for additional language that specifically defines non-residential use on the upper floors. Mr. Marshall agrees that the vibrancy of the street and first floor level is the key component. Mr. Marshall said the Board could recommend the proposal to the Town Council as is with some consideration given to replacing the first/ground floor area percentage with some percentage/fraction of the linear feet of frontage of the first/ground

floor and define a minimum needed for a residential entry. Mr. Marshall said he supports recommending the proposal to the Town Council for adoption with the proportions for the first/ground floor as defined, although if there is tremendous Board support for a higher non-residential percentage he would be willing to consider that.

- Mr. Long agreed that the linear footage along the front is a primary concern and that the gross volume is a secondary concern in the sense that the non-residential use has to be on the first floor. Mr. Long asked if providing options might be useful such as provide a certain number of linear feet on the frontage or 40% of the building for non-residential use.
- Ms. Chao said she appreciates the sentiment of a vibrant first/ground floor; however, she would be reluctant to overcomplicate the language with additional math and/or requirements. Ms. Chao feels the Board has discussed this at length and supports recommending the proposal with the defined proportions of first/ground floor residential and non-residential uses as presented and see how it goes.
- Mr. Malloy explained that staff members were concerned with adding a linear feet of frontage requirement because the result could be narrow spaces that could be difficult to use in the future. Mr. Malloy explained that the way the proposal is worded the Planning Board would have the opportunity to review applications and could condition a frontage requirement that meets the need of specific parcels without being too prescriptive.
- Ms. McGowan suggested that the Board is considering the non-residential uses too narrowly; non-residential uses are a mix of retail/commercial and small businesses and professional offices. She noted the Carriage Shops as an example of non-residential units with very little frontage and a mix of non-residential uses. Ms. McGowan read from the Master Plan Chapter 5 Section E 1 A to support the idea that non-residential uses should provide services as well as a retail experience. Ms. McGowan said that all the towns on the Mixed-Use Building Regulations chart created by staff have strong downtowns with good shopping areas, but also have a lot of professional offices and services. She said that none of the examples required less than 60% of non-residential uses on the first floor. Ms. McGowan suggested that in comparison to 10 years ago, more people live in Amherst and will need more services.

Ms. McGowan said she supports, as was recommended by the Planning Board and Planning Department in 2016, requiring 60% of the first/ground floor be devoted to non-residential use, and she suggested that developers interested in building student housing could afford to allow the first/ground floor to be largely non-residential. Ms. McGowan said that 16 small businesses closed in the area of 1, 11 and 15 East Pleasant Street due to development and only 1 or 2 have replaced them. Ms. McGowan supports mixed-use building regulations that would create spaces for small businesses.

**Motion:** Ms. McGowan made the motion to amend the proposed Zoning Amendment language to require a maximum of 40% gross floor area on the first or ground floor be



residential use or enclosed residential parking, including incidental and associated spaces for residential use(s) and a minimum of 60% gross floor area on the first or ground floor shall be any permitted non-residential use, including incidental and associated spaces for non-residential use.

Being there was no second to the motion, the Board continued their discussion.

- Mr. Long clarified his earlier comment regarding an either/or option. He said unlike the other towns on the Mixed-Use Building Regulations chart, Amherst does not have a residential downtown that actively supports business. Mr. Long reminded the Board that the BID reported, pre-pandemic, that the data demonstrates that leasing business spaces in Amherst is difficult. Mr. Long supports recommending the proposal as it is currently written.
- Mr. Jemsek reiterated his concern for non-residential uses beyond the first/ground floor not being calculated into the percentage requirement.
- Ms. Brestrup said she was speaking on behalf of Mr. MacDougall who asked if there was data showing how many new buildings, if any, had been built since the adoption of the regulations in the towns on the Mixed-Use Building Regulations chart. Mr. MacDougall said that he could not recall any new buildings constructed in Northampton central business district during his lifetime. Mr. Malloy said that Watertown and Waltham have had new development, but couldn't say for sure if it was pursuant to the bylaw examples presented. Ms. McGowan added that, although she was unsure of the Northampton Business District boundaries, several mixed-use buildings have been built on the street that leads to Northampton Coffee.
- Ms. McGowan said that during the 20 years she has been an Amherst resident, there have not been a lot of empty storefronts, and the zoning should not be developed based on the pandemic. She said local businesses report that Amherst is business friendly, but the commercial rents are high. Ms. McGowan reiterated her support for a 60% minimum for non-residential use. She said students are returning in a few weeks and residents are willing to shop downtown. Ms. McGowan asked why the non-residential use percentage decreased from the previous zoning amendment in 2016.
- Mr. Marshall noted that eastern towns included on the Mixed-Use Building Regulations chart would not be comparable to Amherst. He added that there is not a prohibition for a developer to add more non-residential use space in a building if the market supports it. Mr. Marshall said he does not support increasing the non-residential use percentage to 60% at this time. We need to see a couple buildings get to 40% and see if the non-residential spaces get filled.
- Mr. Malloy said the 60% did not pass in 2016, and that based on what the BID has said, 60% would be a high hurdle. He agreed with Mr. Marshall that 40% would be a minimum and more can be voluntarily added. Mr. Malloy said that the Mixed-Use Building Regulations chart depicts that every community does it differently, and the decision to propose 40% was based on prior projects in the last five years and speaking with local developers and the Bid.
- Ms. Brestrup noted three buildings that come close to 40%:

Kendrick Place - approximately 42%

One East Pleasant St. - approximately 40%

Barry Roberts' building at the corner of University Drive and Rt. 9 – approximately 35%

- Ms. Chao said the Board has discussed the pros/cons of the proposal extensively and she is comfortable moving forward. She said the proposal is a huge improvement, but if in the future the zoning is not working and hindering projects then the zoning can be reviewed and amended as needed. Additionally Ms. Chao noted she would like to hear about the conversation with the BID that she missed; Mr. Jemsek requested that Ms. Brestrup provide Ms. Chao with the link to the article regarding the BID's vision regarding the future of the downtown area.
- Ms. McGowan said the purpose of the mixed-use building is to allow the development of residential units in exchange for vibrant village centers and downtown. Ms. McGowan shared her concern that without a significant requirement to include non-residential use on the first/ground floor of a mixed-use building, developers will take down older buildings for residential use projects because rentals are lucrative in Amherst. She stressed the need to create space for businesses in the town's village centers and noted there are 37 businesses in the area of College Street and Southeast Street where the rents are more affordable.

**Motion:** Mr. Marshall made the motion to recommend that Town Council adopt Zoning Bylaw Article 3, Use Regulations, Section 3.325, Mixed-use Buildings and Article 12, Definitions with amendments as proposed. Ms. Chao seconded the motion.

**Discussion**

Mr. Jemsek noted that the 40% non-residential use requirement feels restrictive, but he supports the rationale that the bylaw could be amended in the future.

**Vote:** Chao – yes; Jemsek – yes; Long – yes; MacDougall – yes; Marshall – yes; McGowan – yes (6-0-0 motion approved; Neumann absent)

Ms. McGowan requested that the report to Town Council include a strong section noting the lengthy discussions that the Board had regarding the percentage requirements for residential and non-residential uses. Ms. McGowan noted that in the past Mr. Marshall had asked to review reports being sent to the Town Council on behalf of the Board and she requested that the Board review this report prior to submittal to the Town Council.

**Break:** The Planning Board took a break at 8:00 a.m. and returned to the meeting at 8:06 p.m.,

Mr. Marshall said he did not remember complaining about not receiving a report that was sent to Town Council as Ms. McGowan mentioned. Ms. McGowan clarified that she remembered Mr. Marshall had asked to review reports prior to their being sent to the Town Council, but not that he was complaining.

**B. Zoning Bylaw – Article 5, Accessory Uses, Section 5.011, Supplemental Dwelling Units – Discussion and vote on recommendation to Town Council**

Mr. Jemsek read the proposed amendment and that tonight is the opportunity for the Board to discuss the proposal and then vote on a recommendation to the Town Council. Planner Ben Breger was available to answer any questions.

Mr. Breger said that the Planning staff had made a few minor revisions to the bylaw as it was presented at the public hearing. Ms. Brestrup reported that Town Attorney Joel Bard has advised that changes to the proposal can be made after the closing of the public hearing but prior to a vote of the Town Council provided the amendments are within the scope of the bylaw.

Mr. Breger reviewed the proposal and pointed out the following changes:

- 5.0113 General Requirements: remove the qualifying language to “all accessory dwelling units”
- 5.0113 General Requirements e.: change “a supplemental” to “an accessory”
- 5.0113 General Requirements j.: remove all the current language and add “Parking shall be provided in accordance with Article 7”.

**Motion:** Ms. Chao made the motion to recommend that Town Council adopt the August 4, 2021 revised version of the Zoning Bylaw – Article 5, Accessory Uses, Section 5.011, Supplemental Dwelling Units as proposed. Ms. McGowan seconded the motion.

### **Discussion**

Ms. McGowan said she supports the zoning, however, she remains concerned that people will not be aware of a proposed accessory dwelling unit (ADU) in their neighborhood. If a Special Permit (SP) is required abutters are notified and can participate in the ZBA public hearing; however, the notification process is not required if the review and approval is the responsibility of the Building Commissioner. Ms. McGowan said she had revised language she had suggested at a previous meeting regarding the notification process.

**Motion:** Ms. McGowan made the motion to amend Ms. Chao’s motion by adding the following language “At the time of their application, applicants seeking a permit for a supplemental dwelling unit shall provide to all abutters within 300 feet of their property: 1) written notice of the permit application, 2) all related documents or information about how to obtain this information, 3) notice of who will make the permit decision and when it will be made, 4) how the public can have input into the decision, 5) any rights of appeal of the permit and time requirements to file an appeal.

Prior to a second of the motion, Ms. McGowan questioned if her motion should qualify only those permits reviewed and approved by the Building Commissioner. She said the purpose of the motion is to ensure that people have notice of the application if it does not require the SP process. Ms. Brestrup said staff has discussed this idea at length, and although they understand the reasoning, staff does not support it for the following reasons:

- notification to abutters is not required for construction of similar structures, including a single family home or an addition of any size to a single family home or an addition of a garage
- notification to abutters is not required for contained and attached ADUs because these are allowed by right
- an expedited approval process for detached ADUs is a goal of the Bylaw as a means to encourage the expansion of the housing stock in Amherst; requiring a notification and appeal process would hamper the process and slow down the approval process;
- 
- Article 14, Temporary Zoning, has required abutter notifications and staff has spent a significant amount of time posting abutter notifications and waiting the required time to approve the applications. So far, no complaints, inquiries, or questions have come in as a result of these notifications.
- Currently, Town Staff processes notifications to abutters and posting of legal ads. Property owners may not be set up with the right equipment to be able to print and mail perhaps dozens of letters nor is it appropriate for them to bear the expense.
- While technically an abutter could appeal the issuance of a building permit, since most detached ADUs will be allowed by-right, there is no public forum to an abutter to voice their appeal.

Mr. Morra agreed with Ms. Brestrup's synopsis.

Mr. MacDougall provided the second for Ms. McGowan's motion.

Ms. Chao said the Bylaw proposal allows for some by right ADUs that are clearly defined and that Ms. McGowan's amendment negates the definition of by right and an expedited process. Ms. Chao said that ADUs are the preferred way to add in-fill housing to Amherst's various residential zones, and she does not support the additional notification requirements proposed by Ms. McGowan.

Mr. Marshall said there seems to be a misunderstanding as to what by right means. A project allowed by right means there is no public involvement, nor is a decision really made. A project review is done by the Building Commissioner to ensure it conforms with both the Building and Zoning Codes, but there's no decision to be appealed. Mr. Marshall said he does not believe Ms. McGowan's proposal is necessary.

Ms. McGowan said the term "by right" seems as if an applicant can just get a permit. She noted that the Site Plan Review (SPR) process requires a public hearing with notification and specific criteria considered by the Board. In this case, the same criteria will be applied, but with greater flexibility of interpretation. Ms. McGowan noted the following:

- A new special appeals process would not be created. We would be informing people that they have a right to appeal an issued building permit and the timeline for doing so.

- An ADU is building a new unit on the property and like for converted dwellings and duplexes a public hearing would be appropriate in order for people to feel informed.
- The notification could be a template letter and the applicant would be responsible for the mailing. Staff may need to assist the applicant in obtaining the 300' list of abutters.

In answering a questions from Mr. Jemsek, Mr. Morra said that currently there is no required abutter notifications for a by right contained or attached ADU. The proposal arrives in the form of a building permit application with enough information to respond to all the criteria in the Bylaw. Ms. Brestrup and Mr. Breger confirmed that the current Bylaw and the proposed amendment only allow for one ADU per single family home and it would not be possible to add a second ADU to the property.

Mr. Long said he supports the original motion without the addendum suggested by Ms. McGowan.

Mr. MacDougall appreciated the comments regarding “by right” made by Ms. Chao and Mr. Marshall. However, he said, Ms. McGowan’s proposal for abutter notification provides transparency and a head’s up for neighbors.

Mr. Morra noted that item #4 of Ms. McGowan’s proposal which suggests the public would have input would be problematic without a defined timeline. Ms. McGowan clarified that in item #4, the word public should be abutter.

Mr. Marshall raised the point that communication would probably happen between neighbors in an effort to be a good neighbor. Mr. Long added that if an ADU is allowed by right, he would want to maintain the most efficient path of permitting.

Following the discussion the Board voted on:

**Motion:** Ms. McGowan made the motion to amend Ms. Chao’s original motion by adding the following language “At the time of their application, applicants seeking a permit for a supplemental dwelling unit shall provide to all abutters within 300 feet of their property: 1) written notice of the permit application, 2) all related documents or information about how to obtain this information, 3) notice of who will make the permit decision and when it will be made, 4) how the public can have input into the decision, 5) any rights of appeal of the permit and time requirements to file an appeal. Mr. MacDougall seconded the motion.

**Vote:** Chao – no; Jemsek – no; Long – no; MacDougall – yes; Marshall – no; McGowan – yes (2-4-0 motion fails)

**Motion:** Ms. Chao made the motion to recommend that Town Council adopt the August 4, 2021 revised version of the Zoning Bylaw – Article 5, Accessory Uses, Section 5.011, Supplemental Dwelling Units as proposed. Ms. McGowan seconded the motion.

**Vote:** Chao – yes; Jemsek – yes; Long – yes; MacDougall – yes; Marshall – yes;

McGowan – yes (6-0-0 motion passes)

**V. OLD BUSINESS - None**

**VI. NEW BUSINESS**

**A. SUB 2022-01, 11-13 East Pleasant Street – Archipelago Investments LLC**

Discussion and vote on a request to extend the 45 day review period for a Preliminary Subdivision Plan. The application is described as follows: Request approval for a 2 lot Preliminary Subdivision Plan, under MGL Chapter 41, Sections 81L & 81S (Map 11C-275, 11C-276, 11C-277, 11C-309 and 11C-310, B-G zoning district)

Ms. Brestrup reported that Archipelago Investments LLC (Archipelago) had submitted a preliminary subdivision application for 11 and 13 East Pleasant Street with the intent to freeze the zoning on the property. The Board is required to act within 45 days of receipt of the application which was filed on July 12, 2021 making August 26, 2021 the action expiration date. Archipelago has submitted a request to extend the 45 day review period to a date in late September or early October with a preference for the September 29, 2021 Planning Board meeting.

Mr. Marshall asked why the Board would not just act on it. Ms. Brestrup explained that the Board needs to hold a public hearing in order to act on the application. Due to the applicant's availability, the public hearing was scheduled and advertised for August 25, 2021. Unfortunately, a quorum of the Board will not be available on August 25<sup>th</sup>. Mr. Marshall will be available to open the meeting at which he would open the public hearing and then continue the public hearing to September 29, 2021 as requested by Archipelago.

Ms. Brestrup said she was unclear exactly why the applicant wants to extend the 45 day review period or why he doesn't want you to act on this application and he's not here tonight to explain himself. Ms. Brestrup explained that if a quorum of the Board comes to the August 25, 2021 meeting, the Board could act on the application, however, Ms. Brestrup doesn't believe the applicant is available.

Ms. Brestrup went on to explained that the Board has been considering two zoning amendments that would affect 11 and 13 East Pleasant St. including the Inclusionary Zoning and the Mixed-Use Building. The applicant has proposed 11 affordable units as part of the overall 90 units proposed which aligns with the Inclusionary Zoning amendments, and at the time, the outcome of the proposed Mixed-Use Building was undetermined.

Ms. Brestrup said the applicant is essentially trying to preserve his zoning options. When a change in the Bylaw is proposed, a landowner can submit a preliminary subdivision plan on the property beginning the 45 day review process by the Board.

After the preliminary subdivision plan is reviewed , the applicant must submit a definitive plan within 7 months of the submittal of the preliminary subdivision plan. Approval of the definitive plan is needed in order to freeze the zoning in effect at the time of the submission of the preliminary plan, from which the definitive plan evolved, for a period of 8 years.

Ms. McGowan said she is in favor of extending the review period to October, but September 29, 2021 is fine too.

**Motion:** Ms. McGowan made the motion to extend the 45 day review period for SUB 2022-01 – Preliminary Subdivision Plan for 11 and 13 East Pleasant Street as requested.

#### Discussion

Prior to a second of the motion, Mr. Marshall asked if he was the only Board member present at the August 25, 2021 meeting, could the public hearing be opened, and if the applicant could keep asking for extensions. Ms. Brestrup clarified that the public hearing could be opened and then continued immediately without taking testimony. Ms. Brestrup said she does not believe that extension requests would continue ad infinitum, nor is it in the best interest of the applicant. Ms. Brestrup said there is not a requirement for the Board to approve the preliminary subdivision plan; the applicant can still submit a definitive plan within 7 months.

Mr. Marshall asked if the Board should seek guidance and clarity from Town Counsel on how to proceed in this matter. Ms. Brestrup and Mr. Morra agreed that the Board would handle this matter as they would any other preliminary plan. Mr. Morra added this is a strategic move to freeze the zoning, a tactic that occurs across the state. Mr. Morra said we don't know what the developer is going to do. They may never proceed with the definitive plan, nor do they have to build what is approved to keep the zoning frozen. The developer can still build their proposed building and not the proposed subdivision plan.

Ms. McGowan suggested that when the time comes to begin the review of this application, the Board could benefit from reviewing some background information on reviewing subdivision plans.

Mr. Marshall seconded the motion made by Ms. McGowan and the Board voted as follows:

**Vote:** Chao – yes; Jemsek – yes; Long – yes; MacDougall – yes; Marshall – yes; McGowan – yes (6-0-0 motion passes)

Mr. Marshall confirmed he would attend the August 25, 2021 with Ms. Brestrup to open and then continue the public hearing for this matter. Mr. Jemsek and Ms. Chao said they would be available too. Mr. Long said he is not available for this meeting.

B. Topics not reasonably anticipated 48 hours prior to the meeting - None

**VII. FORM A (ANR) SUBDIVISION APPLICATIONS - None**

**VIII. UPCOMING ZBA APPLICATIONS**

Ms. Field-Sadler described the following two applications which would be presented to the ZBA at their September 9, 2021 meeting:

1. ZBA FY2021-22 – Christine & Peter Gray-Mullen – Request a Special Permit to allow an increase of the number of residential units (Converted Dwelling) from 1 to 2 under Sections 3.324 and 10.38 of the Zoning Bylaw, located at 37 Farview Way (Map 8C/Parcel 7), Neighborhood Residence (RN) Zoning District.
2. ZBA FY2021-23 – Michael & Adriana Powell – Request a Special Permit to allow a flag lot under Sections 6.3, 7.7, and 10.38 of the Zoning Bylaw, located at property identified as Pomeroy Lane (Map 20C/Parcel 154), Outlying Residence (RO) and Neighborhood Residence (RN) Zoning Districts.

The Board briefly discussed reviewing ZBA FY2021-23 and agreed it was not necessary.

**IX. UPCOMING SPP/SPR/SUB APPLICATIONS**

Ms. Brestrup reported the following applications would be coming before the Board in the future:

- 446 Main Street – request for a Special Permit for changes made to a property newly acquired by John Wroblewski (September 29, 2021)
- Amherst College – request Site Plan Review approval for wayfinding signs at multiple locations (September 1, 2021)
- Corner of High and Main Streets – anticipate a request for Site Plan Review approval for changes being proposed to the use of the inside of the building

**X. PLANNING BOARD COMMITTEE & LIAISON REPORTS**

**Pioneer Valley Planning Commission** – Jack Jemsek – No Report

**Community Preservation Act Committee** – Andrew MacDougall – No Report

**Agricultural Commission** – Doug Marshall – No Report

**Design Review Board** – Mr. Long reported that the DRB recently reviewed a proposed building wall sign and metal frame to be located on an entry into the Boltwood Parking Garage.

**Community Resources Committee** – Ms. Brestrup said the CRC has met twice since her last report; however, she was unable to attend. Mr. Malloy reported that the CRC's meeting yesterday they discussed the proposed Mixed-Use Buildings, Accessory Dwelling Units and Apartment zoning amendments. The CRC questioned what would happen if the cap were lifted on the number of units in an apartment building versus encouraging mixed-use buildings. They asked if the dimensional standards would be enough to prevent massive



buildings. The CRC intends to wait for the Planning Board's recommendation prior to voting on any recommendations. Mr. Malloy noted that the CRC did vote to recommend that Town Council adopt Comprehensive Housing Policy.

Mr. Jemsek suggested that it would be useful for the Board to review the buildouts that Planner Maureen Pollock is working on. Ms. Brestrup confirmed that these documents would be considered clarifying and could be available during the Board's deliberation. Mr. Malloy said there was no changes to the zoning amendment.

The Board discussed the possibility of re-opening the public hearings for the Apartments and Parking amendments. Ms. Brestrup pointed out that they could not be re-opened until October. Mr. Malloy said that the renderings being done are the result of questions asked during the public hearing regarding dimensions.

Ms. McGowan asked about a memo sent by resident Pam Rooney and the idea of an apartment building not being allowed within 500' of another apartment building. Mr. Malloy explained that is a possible option if the CRC and Board were concerned that lifting the cap would result in a proliferation of apartment buildings. Ms. McGowan is of the opinion this would be new information. Ms. Brestrup reiterated that the Town Attorney has confirmed that changes within the scope of the original proposal can be made after the public hearing is closed, but before Town Council votes. The prohibiting of apartment buildings within 500' of each other is believed to be within the scope of the original proposal.

The Board agreed to look at the renderings by Ms. Pollock on September 1, 2021.

Additionally, Mr. Malloy asked Mr. MacDougall if the CPA proposals would be available earlier this year. Mr. MacDougall noted that the CPA has not met in several months and he was unsure of the answer. While talking, Mr. Malloy looked at the CPA website and confirmed applications are open on September 1, 2021 and will close on October 1, 2021, and the CPA has added a schedule to the website for transparency.

## **XI. REPORT OF THE CHAIR**

Mr. Jemsek reminded Board members that annually the Board elects officers and reorganizes committee liaison appointments. Mr. Jemsek said that the elections and reorganization would be on the September 1, 2021 agenda, and he shared he would like to step down as Chair.

Mr. Marshall asked why the Board was not meeting in the middle of September and are there additional zoning items that staff are working on that will come before the Board. Ms. Brestrup noted the following zoning amendments are being worked on:

- B-L Overlay District
- Demo Delay
- Converted Dwelling
- Creating a triplex or quadriplex

**XII. REPORT OF THE STAFF**

Ms. Brestrup reported she had no additional report. Ms. McGowan asked if the money for the Design Standard consultant had been allocated. She also asked if the RFP has been drafted and said that Mr. Marshall had asked to review the RFP. Ms. Brestrup confirmed the money has been allocated. The RFP has not been drafted, but she intends to bring it to the Planning Board when it is.

**XIII. ADJOURNMENT**

The meeting adjourned at 9:33 p.m.

Respectfully submitted:                      Approved:

\_\_\_\_\_  
Pamela Field-Sadler  
Administrative Asst.

\_\_\_\_\_  
Jack Jemsek - Chair

DATE: \_\_\_\_\_



**MEMORANDUM**

**TO:** Community Resources Committee (CRC)  
**FROM:** Planning Department  
**RE:** Proposed Zoning Bylaw Amendments – Article 7 Parking  
**DATE:** June 8, 2021

*Bold/Italic text* indicates proposed language.

**~~Bold/Strikethrough~~** indicates proposed removal.

**ARTICLE 7 PARKING & ACCESS REGULATIONS**

**SECTION 7.0 GENERAL REQUIREMENTS**

7.00 In all districts except Educational Districts *and Municipal Parking (MP) Districts*, off-street parking spaces shall be provided and maintained in connection with the construction, conversion or increase in dwelling units or dimensions of buildings, structures or use. The provisions of this section shall apply to parking spaces for cars, vans, light trucks, and similar vehicles used predominantly for personal transportation. Parking for commercial vehicles or vehicles used for private or public transit shall be governed under the provisions of Sections 7.1, 7.3 and 7.5. Except as may be required otherwise by the Permit Granting Board or Special Permit Granting Authority, as applicable, parking spaces shall be provided in at least the following minimum amounts.

7.000 *For residential uses with one or more dwelling units: ~~For dwellings, including apartments:~~*

7.0000 Two (2) parking spaces for each dwelling unit *shall be provided for the following principal residential uses, as regulated in accordance with Article 3:*

- *one family detached dwelling;*
- *two family detached dwelling (duplex);*
- *town house;*
- *subdividable/converted dwellings;*

7.0001 *Adequate parking for each dwelling unit shall be provided for the following principal residential uses and accessory residential uses, as regulated in accordance with Article 3 and Article 5:*

- *apartments*
- *mixed-use building*
- *supplemental dwelling units*

***The amount of parking spaces provided for each dwelling unit shall be based on factors, including but not limited to:***

- ***bedroom count;***
- ***analysis of traffic impact reports;***
- ***proximity to downtown;***
- ***proximity to public transit;***
- ***proximity to public parking, including on-street and off-street parking;***
- ***availability of alternative modes of transportation;***
- ***tenant lease restrictions relative to parking; and***
- ***shared or leased parking, as regulated in accordance with Section 7.2.***

***In addition, the amount of parking spaces provided for each dwelling unit shall meet the provisions required under Section 10.38 and 11.24, as applicable.***

7.0002 Parking spaces for cars or similar vehicles shall be on a paved surface such as concrete, bituminous asphalt, masonry pavers, oil and stone, gravel, trap rock, or a similar material (see Section 7.101).

7.0003 In any residential district, there shall be a maximum of two (2) cars or similar vehicles allowed to be parked in the front setback of any property. Parking in the front setback shall be on paved surfaces only. Where five (5) or more cars are regularly parked on a given property in association with a residential use, parking in the front setback shall be designed so as to ensure free passage at all times for regular users and unrestricted access for emergency vehicles.

# PARKING



## EXISTING ZONING LANGUAGE

For dwellings, including apartments:

Two (2) parking spaces for each dwelling unit.



## PROPOSED ZONING AMENDMENT LANGUAGE

For residential uses with one or more dwelling units:

Two (2) parking spaces for each dwelling unit shall be provided for the following:

- one family detached dwelling;
- two family detached dwelling (duplex);
- town house;
- subdividable/converted dwellings;



## PROPOSED ZONING AMENDMENT LANGUAGE

Adequate parking for each dwelling unit shall be provided for the following:

- Apartments
- Mixed-use building
- Supplemental dwelling units

The amount of parking spaces provided for each dwelling unit shall be based on specific factors such as: bedroom count; analysis of traffic impact reports; proximity and connectivity to downtown, public transit, and/or public parking, including on-street and off-street parking; availability of alternative modes of transportation; tenant lease restrictions relative to parking; and shared or leased parking.







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To: Town Council

Fr: Paul Bockelman, Town Manager  
Christine Brestrup, Planning Director

Dt: June 25, 2021

Re: Amendments to Zoning Bylaw Article 7: Parking and Access Regulations

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### **Executive Summary**

I request that the Town Council review and adopt amendments to Article 7: Parking and Access Regulations.

These amendments have been drafted by Town staff, led by Planning Director Christine Brestrup and Building Commissioner Robert Morra, who also produced the content of this memorandum.

The purpose of this zoning amendment is to amend the Zoning Bylaw to change parking requirements for Apartments, Mixed-use Buildings, and Supplemental Dwelling Units.

### **Background**

During 2020 the Planning Board and the Community Resources Committee (CRC) of the Town Council worked together on a list of zoning priorities that they hoped to present to the Town Council. This work culminated in a list of zoning priorities. On January 4, 2021, the Town Council voted to direct the Town Manager to present zoning amendments to the Town Council.

At the same time, the Planning Department and Building Commissioner had developed a list of zoning priorities, some of which overlapped with those developed by the Planning Board and the CRC.

Since February 2021, Planning Department staff and the Building Commissioner have been working with the Community Resources Committee and the Planning Board to develop zoning amendments to address these zoning priorities, along with priorities of the Planning Department and the Building Commissioner.

Revising the Parking bylaw grew out of the Planning Department's work on Mixed-use Buildings, Apartments, and Supplemental Dwelling Units which were included in the Town Council priorities. It is now ready to be presented to Town Council.

## **History**

Parking requirements have been part of the Amherst Zoning Bylaw for at least 60 years.

In 1958 the Zoning Bylaw stated:

“There shall be provided, in connection with every dwelling unit hereafter constructed, in any zoning district, at least one off-street parking space on the same lot as such dwelling.”

By 1966 the parking requirements had changed and stated:

“For dwellings including apartments – one parking space for each family unit, except where the family consists of a group of unrelated persons as described in Section XIII, Paragraph 1c \* in which case one parking space must be provided for each motor vehicle operated by a member of the group.”

\* “A group of unrelated individuals, not to exceed 4, residing cooperatively in one dwelling unit.”

By 1980 the Zoning Bylaw required:

For dwellings including apartments – one and one half parking spaces for each family unit, except where the family consists of a group of unrelated persons as described in Section 12.033 [should read 12.043 \* ] in which case one parking space must be provided for each motor vehicle operated by a member of the group.”

\* “A group of unrelated individuals, not to exceed 4, residing cooperatively in one dwelling unit.”

The current requirement in the zoning bylaw requires that two (2) parking spaces be provided for each dwelling unit, regardless of the use category.

Section 7.9 of the Zoning Bylaw allows the Permit Granting Authority to waive or modify the parking requirements “for reasons of safety, aesthetics or site design”.

There is also a Section 7.90 that specifies conditions that need to be met in order for the Permit Granting Authority to be able to modify parking requirements.

The waivers section currently reads as follows. Note, no changes are proposed to this section.

### **SECTION 7.9 WAIVERS**

7.90 Any section or subsection of Article 7.0, Parking Regulations, may be waived or modified by the Permit Granting Board or Special Permit Granting Authority authorized to act under the applicable section of the Bylaw for compelling reasons of safety, aesthetics, or site design.

7.91 Parking space requirements under Section 7.0 may be modified when one or more of the following conditions are met to the satisfaction of the Permit Granting Board or Special Permit Granting Authority:

7.910 Peak parking needs generated by on-site uses occur at different times.

- 7.911 A significant number of employees, tenants, patrons or other parking users of the site are common to and shared by more than one use on the site.
- 7.912 A parking management plan approved by the Permit Granting Board or Special Permit Granting Authority is implemented with occupancy of the building or buildings. Said plan shall include the implementation of such measures as car and van pooling, bicycling and public transit use sufficient to reduce the need for parking. Periodic documentation of reductions in vehicle trips and parking utilization as a result of the parking management plan may be required as a condition of any permit granted under this section.

### **Rationale**

Recently there have been long discussions at Planning Board meetings regarding parking requirements for various types of developments, but particularly for Mixed-use Buildings located outside of the B-G (General Business) zoning district. Planning Board and Zoning Board of Appeals members would benefit from having more guidance as to when they can modify parking requirements.

This zoning amendment is intended to give the Planning Board and Zoning Board of Appeals the guidance.

### **Process**

The proposed zoning amendment would require that “Adequate parking for each dwelling unit shall be provided for apartments, mixed-use buildings, and supplemental dwelling units.”

Guidance provided to the Boards includes giving the Boards factors to consider when determining whether parking requirements should be modified. These factors include:

- Bedroom count.
- Analysis of traffic impact reports.
- Proximity and connectivity to downtown, public transit, and/or public parking, including on-street and off-street parking.
- Availability of alternative modes of transportation.
- Tenant lease restrictions relative to parking.
- Shared or lease parking in accordance with Section 7.2 of the Zoning Bylaw.

### **Proposal**

The Town Manager, led by the Planning Department, is requesting that the Town Council review and adopt the attached amendments to Article 7 of the Zoning Bylaw.

We anticipate the Town Council will refer the proposed amendments to the Planning Board and Community Resources Committee for a public hearing. Town staff stand ready to assist the Planning Board and CRC in their deliberations.

See the following pages for existing language proposed to be repealed and new language proposed to be inserted into the Zoning Bylaw.

**PROPOSED ZONING BYLAW AMENDMENTS**  
**SECTION 7: PARKING AND ACCESS REGULATIONS**

*Bold/Italic text* indicates proposed new language.

**~~Bold/Strikethrough~~** indicates proposed deleted removal.

**ARTICLE 7            PARKING AND ACCESS REGULATIONS**

**SECTION 7.0        GENERAL REQUIREMENTS**

7.00    In all districts except Educational Districts *and Municipal Parking (MP) Districts*, off-street parking spaces shall be provided and maintained in connection with the construction, conversion or increase in dwelling units or dimensions of buildings, structures or use. The provisions of this section shall apply to parking spaces for cars, vans, light trucks, and similar vehicles used predominantly for personal transportation. Parking for commercial vehicles or vehicles used for private or public transit shall be governed under the provisions of Sections 7.1, 7.3 and 7.5. Except as may be required otherwise by the Permit Granting Board or Special Permit Granting Authority, as applicable, parking spaces shall be provided in at least the following minimum amounts.

*7.000    For residential uses with one or more dwelling units: ~~For dwellings, including apartments:~~*

7.0000 Two (2) parking spaces for each dwelling unit *shall be provided for the following principal residential uses and accessory residential uses, as regulated in accordance with Article 3 and Article 5:*

- *one family detached dwelling;*
- *two family detached dwelling (duplex);*
- *town house;*
- *subdividable/converted dwellings;*

7.0001 *Adequate parking for each dwelling unit shall be provided for the following principal residential uses and accessory residential uses, as regulated in accordance with Article 3 and Article 5:*

- *apartments*
- *mixed-use building*
- *supplemental dwelling units*

*The amount of parking spaces provided for each dwelling unit shall be based on factors, including but not limited to: bedroom count; analysis of traffic impact reports; proximity and connectivity to downtown, public transit, and/or public parking, including on-street and off-street parking; availability of alternative modes of transportation; tenant lease*

*restrictions relative to parking; and shared or leased parking, as regulated in accordance with Section 7.2.*

*In addition, the amount of parking spaces provided for each dwelling unit shall meet the provisions required under Section 10.38 and 11.24, as applicable.*

- 7.0002 Parking spaces for cars or similar vehicles shall be on a paved surface such as concrete, bituminous asphalt, masonry pavers, oil and stone, gravel, trap rock, or a similar material (see Section 7.101).
- 7.0003 In any residential district, there shall be a maximum of two (2) cars or similar vehicles allowed to be parked in the front setback of any property. Parking in the front setback shall be on paved surfaces only. Where five (5) or more cars are regularly parked on a given property in association with a residential use, parking in the front setback shall be designed so as to ensure free passage at all times for regular users and unrestricted access for emergency vehicles.

**I. BACKGROUND (history, problem goals)**

**A. History** When was the 2 spaces/unit adopted by Town Meeting and why?

- Is there a Planning Board Report, reports from the Planning Department or research or studies used for baseline standard of 2 parking spaces/unit?
- Has it 2 spaces/unit worked? Met parking needs of tenants?

**B. Problem and Goals?**

1. **Is problem PB/ZBA spending too much time at permit hearings discussing waivers 2 parking spaces/unit?** How will project-by-project decisions on “adequate parking” and collecting information each time lead to less, not more, time spent at permit hearings?
2. **What is the problem with how Article 7 works now?** ZBA and PB can reduce amount of parking with Section 7.9, grant leased parking or shared parking -- or require more parking under Section 10.384 (“adequate and appropriate facilities would be provided for the proper utilization of the proposed use.”)
3. **Is the problem that there too many spaces per unit?** Where? Data?
4. **Is the goal to make sure tenants have the parking spaces they need?** If yes, how does this amendment ensure this? Is current 2 spaces/unit too little/too much?
5. **Is the goal to reduce costs to developers so they can reduce rents?** Evidence this will happen? Highest rents in Amherst in buildings without provide parking (downtown) and with (Amherst Heights).
6. **Is the goal to reduce car use by tenants in some types of buildings?** Is this fair?

**II. RESEARCH/COLLEGE TOWNS/OPTIONS**

**A. Research**

1. **What research did PD rely on before proposing this amendment?** Local data shows Municipal Parking district tenants have cars, bus use reductions of 4-5%/each year, few year-round bikers or commuters, PVTA bus routes curtailed in summer and December, increased car traffic, 2,000 more registered cars than a decade ago. Can PD provide more info on resident and student PVTA ridership, car use, UMass parking permits, etc.?
2. **What are all the factors PD researched and considered to determine parking needs and standard?** Transit and bike ridership data, building type, proximity to shopping or a metropolitan mass transit stop, tenant status (i.e., students, parents), income, age, job location, family status, age of children, location of food stores & medical offices, bus routes, seasonal mass transit schedules, year-round bicycle use ? Can PD provide this info?
3. **Which factors changed tenant parking needs?**
4. **Has PD conducted parking studies of Amherst’s 25+ apt complexes, mixed use buildings, and supplemental dwelling units and other multi-family housing, as recommended by Transportation Plan?**
5. **What led PD to conclude tenants of townhouses, duplexes and converted dwellings require 2 parking spaces/unit—do they have different parking needs?**
6. **Other towns set parking requirements by bedroom count, square footage, zoning district—what info on other towns did PD collect before choosing “adequate parking” standard?**

7. Has PD asked tenants about their parking needs?
8. What info was Transportation Advisory Committee asked for and what did they provide?

#### **B. Alternatives**

1. Do other towns use “adequate parking” for mixed use, apts and supplemental dwelling units project by project? If yes, how has this worked out?
2. Why didn’t PD pick standards usually used, such as unit size, zoning district, bedroom count, square footage, age or income of tenants.?
3. What alternatives were considered by PD?
4. Did PD look at making changes to 7.9 parking waiver criteria, by adding evidence-based factors to 7.9 to show reduced parking need?

### **III. POTENTIAL RESULTS/IMPACTS**

1. Since the term “adequate parking” is pretty vague—will it lead to inconsistent decisions by different boards? Correct or incorrect decisions?
2. Will PB/ZBA spend more time on permit applications, collecting data and deciding “adequate parking”?
3. How will developers or landlords show how many parking spaces are needed/not needed? Will developers be told what information to collect (i.e. how to conduct a parking study)? How to confirm or rebut this info? Will PD verify?
4. How will amendment work with **Section 7.9 Waivers**? Can the “adequate parking” requirement be waived for mixed use buildings, apartments and ADUs?
5. Can PD show potential impacts on the size of apt and mixed-use buildings in different zoning districts if parking is reduced? For ex., what could be built in RG with “adequate” vs. 2 spaces/unit?
6. Can PD show impacts if other zoning changes also are adopted? Reduced lot and building coverage and no cap on apartment units (in R-G, North Amherst historic district), etc.? What could buildout look like?
7. Will incentives tilt away from smaller scale infill development of converted/subdivided dwellings, duplexes and townhouses that have to provide 2 spaces/unit?
8. Can and will landlords not provide parking to most or all tenants by **lease restriction**?
9. Won’t property owners/landlords simply use lease restrictions to reduce parking spaces since it’s cheaper and more profitable for them?
10. What if a tenant later needs a car? Will tenant have to break lease and owe rent?
11. What if a project doesn’t have enough parking and no nearby parking?
12. Will reduced parking ensure more greenspace at a project?
13. What does the PD staff see as Pros and cons of this zoning amendment change?
14. CRC Community Impact Review? Their research and pros and cons?

### **IV. RESIDENT NOTIFICATION & INVOLVEMENT?**

How were Amherst residents, including students and tenants, notified? Their feedback and ideas? TAC asked for advice?

## **ARTICLE 7 PARKING & ACCESS REGULATIONS**

<b>SECTION 7.0</b>	<b>GENERAL REQUIREMENTS</b>
<b>SECTION 7.1</b>	<b>DESIGN STANDARDS AND LANDSCAPE STANDARDS</b>
<b>SECTION 7.2</b>	<b>COMMON FACILITIES</b>
<b>SECTION 7.3</b>	<b>LOADING AREAS</b>
<b>SECTION 7.4</b>	<b>MUNICIPAL PARKING DISTRICT</b>
<b>SECTION 7.5</b>	<b>ACCESSORY PARKING</b>
<b>SECTION 7.6</b>	<b>HANDICAPPED PARKING</b>
<b>SECTION 7.7</b>	<b>ACCESS REQUIREMENTS &amp; INDIVIDUAL DRIVEWAYS</b>
<b>SECTION 7.8</b>	<b>BICYCLE RACKS</b>
<b>SECTION 7.9</b>	<b>WAIVERS</b>

### **SECTION 7.0 GENERAL REQUIREMENTS**

7.00 In all districts except Educational Districts, off-street parking spaces shall be provided and maintained in connection with the construction, conversion or increase in dwelling units or dimensions of buildings, structures or use. The provisions of this section shall apply to parking spaces for cars, vans, light trucks, and similar vehicles used predominantly for personal transportation. Parking for commercial vehicles or vehicles used for private or public transit shall be governed under the provisions of Sections 7.1, 7.3 and 7.5. Except as may be required otherwise by the Permit Granting Board or Special Permit Granting Authority, as applicable, parking spaces shall be provided in at least the following minimum amounts.

7.000 For dwellings, including apartments:

7.0000 Two (2) parking spaces for each dwelling unit.

7.0001 Parking spaces for cars or similar vehicles shall be on a paved surface such as concrete, bituminous asphalt, masonry pavers, oil and stone, gravel, trap rock, or a similar material (see Section 7.101).

7.0002 In any residential district, there shall be a maximum of two (2) cars or similar vehicles allowed to be parked in the front setback of any property. Parking in the front setback shall be on paved surfaces only. Where five (5) or more cars are regularly parked on a given property in association with a residential use, parking in the front setback shall be designed so as to ensure free passage at all times for regular users and unrestricted access for emergency vehicles.

7.001 For all other places with sleeping accommodations, including rooming houses, lodging or boarding houses, fraternity and sorority buildings, hotels, motels, inns, bed and breakfasts, hospitals, and nursing homes - one (1) parking space for each bedroom for single or double occupancy; or, where not divided into such rooms (as in a dormitory or ward) - one (1) space for every two beds. For hostels, one (1) parking space shall be provided for every five (5) beds.

7.002 For places of public assembly, including libraries, museums, clubs, restaurants, theaters, bowling alleys and other amusement centers, funeral establishments, trade schools and bus depots - one (1) parking space for each four (4) seats or, where benches are used, one (1) space for each eight (8) lineal feet of bench. Where no fixed seats are used (as in a museum), there shall be one (1) parking space provided for each 80 square feet of public floor area.

7.003 Religious and Educational Uses

7.0030 For places of public assembly for educational or religious use, one (1) parking space for every four (4) seats, or where benches are used, one (1) space for each eight (8) lineal feet of bench. Where standing room and/or seating on the floor is to be used, there shall be one (1) parking space provided for each 80 square feet of public floor area.

7.0031 For each meeting hall, social center or other similar place(s) of assembly used for religious purposes there shall be at least one (1) parking space for every four (4) seats. These parking spaces shall be in addition to the parking spaces required in Section only if there is substantial regular, concurrent use of the place(s) of assembly on the property.



- 7.0032 Dwelling place of a religious community. For each convent, monastery, or like dwelling place of a religious community, there shall be at least one (1) parking space for every three (3) bedrooms for single or double occupancy, or for every three (3) beds in group sleeping quarters.
- 7.004 For all retail, office and similar uses:
- 7.0040 In the B-G, B-VC, B-N and B-L (abutting B-G and B-VC only) districts, and on any lot within a COM District that abuts a B-VC or R-VC District or is within or abuts a National Historic Register District - 3.3 parking spaces per 1,000 square feet of gross first floor area, plus 2.5 spaces per 1000 square feet of GFA (gross floor area), exclusive of storage space, on all other floors.
- 7.0041 In the B-L and COM Districts (exclusive of those areas cited in 7.0040) and the OP, PRP and LI Districts, the parking requirement shall be the sum of the following:
- 3.3 spaces/1,000 sq. ft. for the first 10,000 sq. ft. of GFA; plus  
2.5 spaces/1,000 sq. ft. for GFA between 10,001-12,500 sq. ft.; plus  
2.0 spaces/1,000 sq. ft. for GFA over 12,500 sq. ft.
- 7.005 For all other permitted uses, including veterinary establishments, day nurseries, farm stands, open lots sales or storage yards, building trades establishments, storage or distribution plants, office uses under Section 3.360, and all other commercial uses, adequate parking spaces to accommodate under normal conditions the cars of occupants, employees, members, customers, clients, and visitors to the premises.
- 7.01 Except in the Office Park (OP), Professional Research Park (PRP) and Light Industrial (LI) Districts, off-street parking spaces required herein shall be provided either on the lot with the principal use, or on any other associated premises within 800 feet. In the OP, PRP and LI Districts, all required off-street parking shall be contained within said Districts.
- 7.02 Within an Educational District, adequate off-street parking shall be provided so that neither curb parking on public streets nor parking on property outside the Education District shall be needed in connection with uses within the Education District.

## **SECTION 7.1 DESIGN STANDARDS AND LANDSCAPE STANDARDS**

The purposes of these design and landscaping requirements are to provide for: the safe and efficient flow of pedestrian and vehicular traffic; the separation of parking areas from abutting streets; visual relief from expanses of unbroken blacktop and vehicles; proper drainage and snow removal; and general visual enhancement of parking areas. Residential uses of four or fewer units shall be exempt from Sections 7.102 and 7.103.

### **7.10 Design Standards**

- 7.100 For new or altered parking areas consisting of a total of five (5) or more parking spaces, where no Special Permit or Site Plan Review approval is required:
- 7.1000 Parking Plan Required: An accurate scaled site plan shall be submitted to the Building Commissioner demonstrating compliance of the proposed parking with this bylaw with respect to driveways, grading, slope, drainage, design, setbacks, layout, location on the site, circulation, lighting, landscaping, and other pertinent features.
- 7.1001 Waiver or Modification: Where not otherwise provided for under Section 7.90 or other sections of the Bylaw, any provision of Section 7.1 may be waived or modified by the Building Commissioner for compelling reasons of safety or design, except that no such administrative waiver or modification may be granted for maximum lot coverage.
- 7.101 Paving: For the purposes of this bylaw, a paved parking surface shall be considered to be one which has a prepared subgrade and compacted gravel base with a minimum total 12 inch depth, appropriate grading and drainage, and which is surfaced with a minimum 2 inch top coat of concrete, asphalt, masonry pavers, oil and stone, gravel, trap rock, or similar material, as approved or modified by the Town Engineer. To the extent feasible, permeable or porous paving shall be employed in new construction or site renovations or improvements.

- 7.102 Slope: Parking areas used for parking and vehicle maneuvering shall have grades not to exceed five percent slope.

Driveways used exclusively for ingress or egress or interior parking lot circulation shall have slopes not exceeding 12 percent except within 30 feet of the road, in which case the slope shall not exceed 5 percent.

- 7.103 Set back from buildings: except for parking within an enclosed structure, no parking space shall be located within eight feet of a building wall. No access aisle, entrance or exit driveway shall be located within five feet of a building. Loading docks are exempt from this requirement.

- 7.104 Dimensions, Marking & Delineation

The area of all parking areas shall be included in the calculation of maximum lot coverage.

Parking areas shall be clearly delineated and shall be provided with a permanent dust-free surface and adequate drainage. Each parking space shall be at least 9 feet x 18 feet in size, and all parking areas must have adequate access and maneuvering areas. The Zoning Board of Appeals (SP) or the Planning Board (SPR) may allow, upon application, small car parking spaces (8 feet x 16 feet) to be substituted for up to fifty percent of the standard parking spaces. Compact parking spaces shall be designated by clearly visible signs.

In all parking areas of five (5) or more parking spaces, individual spaces shall be painted, marked or otherwise delineated in a manner sufficient to visibly identify said spaces.

Curb radii, driveway width, and other such dimensions shall comply with the "Street and Site Work Construction Standards", adopted by the Town Council, as such standards may be amended, unless otherwise specified in Section 7.1, Design Standards and Landscape Standards.

Ramps between parking areas of different elevations shall not exceed 12 percent slope, with a maximum 5 percent transition slope for a minimum length of 20 feet at the upper and lower end of the ramp slope. All parking plans involving ramps shall be accompanied by profiles showing the ramp, ramp transitions, and overhead and wall clearances.

- 7.105 Lighting: adequate lighting shall be provided for all parking areas of 5 spaces or more if these areas are to be used at night. All exterior site lighting associated with parking areas shall be downcast and shall be directed or shielded to eliminate light trespass onto any street or abutting property and to eliminate direct or reflected glare perceptible to persons on any street or abutting property and sufficient to reduce a viewer's ability to see.

Adjacent properties shall be protected from light intrusion through the use of cut-off luminaries, light shields, lowered height of light poles, screening or similar solutions. All exterior site lighting shall be kept extinguished outside of normal hours of use, except for lighting necessary for site security and the safety of employees and visitors, which lighting shall be activated and controlled through motion sensors or similar technology.

- 7.106 Entrance and exit driveways: the minimum width of entrance and exit drives shall be 10 feet wide for one-way use and 18 feet wide for two-way use. The minimum curb radius shall be 15 feet. The maximum width of such driveways at the property line shall be 24 feet. The permit granting board may modify these width and radius limitations to facilitate traffic flow and safety.

Driveways shall be located and designed so as to minimize conflict with traffic and provide clear visibility and sight distances for the observation of approaching pedestrian and vehicular traffic. The design and layout of driveways and circulation serving parking areas of 5 or more spaces shall prevent vehicles from backing into a street in order to exit the site. Circulation design, layout, and signs associated with non-residential uses shall direct exiting vehicles in a safe and convenient manner toward main thoroughfares and away from secondary streets passing through adjacent residential neighborhoods. No portion of the driveway at the edge of the street pavement shall be closer than 75 feet from an intersection, unless allowed by the Special Permit Granting Authority or Permit Granting Board.

## 7.11 Landscape Standards

- 7.110 Parking areas of 10 or more spaces shall provide a minimum of 10 percent of the total parking area as landscaped open space (this may be included in the calculation of open space area under Table 3: Dimensional Regulation: Maximum Lot Coverage).
- 7.111 Parking areas of 25 or more spaces shall provide landscaped islands of a minimum width of four feet, with raised curbs, throughout the parking area for the purposes of: a) defining parking lot entrances, b) defining the ends of a portion of the parking aisles, c) defining the location and pattern of primary internal access drives, d) separating parking spaces within long rows of spaces, and e) separating some of the rows of parking spaces from other rows.
- 7.112 Screening: parking areas with 5 or more spaces shall provide effective screening of the parking area from adjacent streets or properties. Such screening may be accomplished by: depressions in grade 3 feet or more; a hedge or wall; or any type of appropriate natural or artificial permanent division. Any required screening barrier shall not be less than 3 feet high. Screening shall not be located to obstruct driver visions so as to impair safety at intersections or driveway entrances or exits.

## SECTION 7.2 SHARED OR LEASED PARKING

- 7.20 Parking spaces required for one use shall not be considered as providing the required facilities for any other use, except as hereinafter provided. Any existing parking above 120% of parking otherwise required for all uses on a property may be shared or leased by right. Where existing parking spaces are more than 100% but less than 120% of parking otherwise required for all on-site uses, applicants for a Site Plan Review approval or Special Permit may request to share and/or lease the parking spaces, based on the following conditions:
  - 7.200 Shared Parking: Where it has been demonstrated to the satisfaction of the permit granting authority that one or more of the following conditions is met:
    - 7.2000 Parking spaces to be shared represent the difference between peak parking needs generated by on-site uses occurring at different times. This may include reductions in parking use resulting from employees, tenants, patrons or other parking users of the site being common to and shared by more than one different use on the site, and/or;
    - 7.2001 Parking spaces to be shared represent the difference between current levels of peak parking utilization and anticipated lower future levels of peak parking utilization, said difference to be generated in whole or in part by a parking management plan approved by the permit granting authority. Said plan shall include and implement measures such as car and van pooling, bicycling and public transit. The permit granting authority may require periodic documentation of reductions in parking utilization realized as a result of the parking management plan.
  - 7.201 Leased Parking: In the B-G, B-VC, B-N, B-L, COM and R-VC Districts the lease of spaces for on- or off-site uses shall be by Site Plan Review, unless otherwise required. In the R-G, R-N, R-F, R-O and R-LD districts, the lease of more than two existing parking spaces shall require a Special Permit, unless requested as part of a Site Plan Review application for an associated use on the property. Any lease of parking spaces for on- or off-site uses may only be permitted under the following conditions:
    - 7.2010 The parking is suitably located in the neighborhood in which it is proposed, as deemed appropriate by the permit granting authority.
    - 7.2011 Adequate and appropriate facilities, including but not limited to appropriate paving, landscaping, screening, lighting, curbing or wheel stops, are provided for the proper operation of the proposed leased parking. Special attention shall be paid to ensuring safe vehicular circulation on the site and at the intersection with abutting streets.
    - 7.2012 The permit granting authority may require the preparation and submittal of a study to provide evidence of parking utilization levels.

### **SECTION 7.3 LOADING AREAS**

Adequate off-street loading and receiving areas shall be provided for all business, commercial and industrial uses.

### **SECTION 7.4 MUNICIPAL PARKING (MP) DISTRICT**

#### **7.40 General**

The Municipal Parking District is an overlay district and shall be superimposed on other districts established by this Bylaw. Restrictions and prohibitions of land use in the underlying district shall remain in full force and shall not be modified by the conditions of the MP District unless superseded by the restrictions and prohibitions of the MP District.

#### **7.41 Establishment of District**

The Municipal Parking District shall consist of those geographic areas shown for this district on the Official Zoning Map. This District is configured to include those lands which constitute the developed core of the downtown business area and immediately abutting residential areas.

#### **7.42 Purpose**

The purpose of this district is to encourage the dense development of mixed-use buildings and pedestrian spaces in Amherst Town Center. Toward that end, provision of off-street parking is not required for selected uses within the MP District.

#### **7.43 Regulation**

Notwithstanding the other provisions of Section 7.0, off-street parking spaces need not be provided for any principal or related accessory uses under the following categories of Section 3.3, Use Chart: Residential Use (Section 3.32), Retail Business and Consumer Service Use (Section 3.35), and Research and Industrial Use (Section 3.37), located within the Municipal Parking District as herein defined. The following uses shall be required to meet the parking requirements of this Bylaw within the MP District: dormitory or similar college residence hall, hotel or motel, inn and all other principal and accessory uses under other categories of Section 3.3, Use Chart.

### **SECTION 7.5 PARKING FOR ACCESSORY USES**

For regulations governing parking associated with accessory uses, see Section 5.014, Garaging or Parking of Motor Vehicles.

### **SECTION 7.6 HANDICAPPED PARKING**

Parking spaces shall be provided for the physically handicapped according to the following table:

10-20 spaces	1 handicapped space
21-30 spaces	2 handicapped spaces
31-50 spaces	3 handicapped spaces
51-100 spaces	4 handicapped spaces
101 or more	refer to Rules and Regulations of Architectural Access Board.

Parking spaces for the physically handicapped shall be designed in accordance with the Rules and Regulations of the Architectural Access Board of the Commonwealth of Massachusetts Department of Public Service, as such standards may be amended. Handicapped spaces shall be clearly identified by a sign stating that such spaces are reserved for physically handicapped persons. The handicapped spaces shall be located in the portion of the parking lot nearest the entrance to the use or the structure which the parking lot serves. Adequate access for the handicapped from the parking area to the structure shall be provided.

## **SECTION 7.7 ACCESS REQUIREMENTS & DRIVEWAYS**

### **7.70 Flag Lots**

- 7.701 Unimpeded access shall be provided across either the access strip or an easement at least twenty (20) feet wide.
- 7.702 The driveway within the access strip or easement shall have adequate drainage and shall not exceed 5% grade within fifty (50) feet of the intersection of the driveway and the paved or otherwise improved section of the street.
- 7.703 In all instances where either two or three flag lots are created with their access strips adjacent to each other at the street line, access to the lots shall be provided by a single common driveway.
- 7.704 Flag lot common driveways shall meet the requirements of Section 7.71.

### **7.71 Common and Individual Driveways**

- 7.710 Common driveways shall not be considered public ways and shall not provide lot frontage.
- 7.711 Common driveways shall not provide access to more than four frontage and/or flag lots.
- 7.712 Common driveways shall be not less than sixteen (16) feet in width and with all curve radii adequate for fire and other emergency vehicles; constructed with bituminous asphalt, concrete, oil & stone, compacted gravel, or other similar material according to accepted construction standards; and shall include two (2) foot wide shoulders on each side free of obstructions such as trees, fences, poles and bushes. An individual driveway shall be constructed in accordance with the same standards, but shall be not less than twelve (12) feet in width, and need not provide clear shoulders.
- 7.713 Driveway Lengths
  - 7.7130 The maximum length of a common driveway shall be four hundred (400) feet. A common driveway shall be measured along its centerline from its point of intersection with the paved or otherwise improved section of the street to the most distant portion of its turnaround.
  - 7.7131 The length of an individual driveway originating at a common driveway plus the length of the common driveway measured from the point of intersection of the center lines of the individual and common driveways to the paved or otherwise improved section of the street, shall not exceed twelve hundred (1200) feet. Measurement of the individual driveway shall be along its centerline from its point of intersection with the center line of the common driveway to its termination at the building it serves, or to the portion of the vehicle storage area closest to said building.
  - 7.7132 Longer driveways may be allowed by the Planning Board in accordance with Section 7.722.
  - 7.7133 The length of an individual driveway originating at a street shall not be limited.
- 7.714 Common driveways shall not exceed a 5% grade within fifty (50) feet of the intersection of the driveway and the paved or otherwise improved section of the street.
- 7.715 The maximum grade of any common or individual driveway shall be 10%. Short sections may exceed 10% with the approval of the Planning Board in accordance with Section 7.722, but in no event shall any section exceed 15%. Individual driveways not over two hundred (200) feet long, extending directly from a street, and not exceeding 15% grade are not subject to this requirement.
- 7.716 The intersection angle between a common driveway center line and the street center line shall not be less than sixty (60) degrees.
- 7.717 The curb radii of a driveway at its intersection with the streets shall be in accordance with the Regulations of the Amherst Department of Public Works.

- 7.718 There shall be a turnaround located at the end of the common driveway adequate for fire and other emergency vehicles.
- 7.719 Street addresses for all dwelling units on a common driveway shall be posted in a manner sufficient for public safety purposes both at the intersection of the common driveway and the street and at the intersection of the common driveway and each individual driveway.
- 7.720 An agreement providing access over the common driveway to all lots and making all lots served by the common driveway jointly responsible for its maintenance and repair, including snowplowing, shall be recorded at the Hampshire County Registry of Deeds. Evidence of the recording shall be submitted to the Building Commissioner prior to the issuance of a building permit for any lot served by the common driveway.
- 7.721 The Planning Board may require engineered plans for the driveways and drainage if it deems such plans necessary.
- 7.722 For any lot within a Definitive Subdivision Plan, the Planning Board may allow a driveway longer than specified in Section 7.713 or may allow a section of a driveway to exceed 10% grade provided that such modification meets the provision of Sections 6.330-6.335.

For Subdivision Approval Not Required lots, the Planning Board may grant a Special Permit to allow a driveway longer than specified in Section 7.713 or may allow a section of a driveway to exceed 10% grade provided that such modification meets the provisions of Sections 6.330-6.335.

## **SECTION 7.8 BICYCLE RACKS**

For all uses classified under Section 3.3 that are required to provide, or do provide, 10 or more parking spaces, the installation of bicycle racks shall be required. The bike racks shall be designed to provide for the locking of the bicycles to the racks. The design, location and number of bike racks shall be approved by the permit granting board as part of an approval of the permit request.

## **SECTION 7.9 WAIVERS**

- 7.90 Any section or subsection of Article 7.0, Parking Regulations, may be waived or modified by the Permit Granting Board or Special Permit Granting Authority authorized to act under the applicable section of the Bylaw for compelling reasons of safety, aesthetics, or site design.
- 7.91 Parking space requirements under Section 7.0 may be modified when one or more of the following conditions are met to the satisfaction of the Permit Granting Board or Special Permit Granting Authority:
- 7.910 Peak parking needs generated by on-site uses occur at different times.
- 7.911 A significant number of employees, tenants, patrons or other parking users of the site are common to and shared by more than one use on the site.
- 7.912 A parking management plan approved by the Permit Granting Board or Special Permit Granting Authority is implemented with occupancy of the building or buildings. Said plan shall include the implementation of such measures as car and van pooling, bicycling and public transit use sufficient to reduce the need for parking. Periodic documentation of reductions in vehicle trips and parking utilization as a result of the parking management plan may be required as a condition of any permit granted under this section.

From Janet McGowan – 9/9/21

## **Existing language**

### **SECTION 7.9 WAIVERS**

7.90 Any section or subsection of Article 7.0, Parking Regulations, may be waived or modified by the Permit Granting Board or Special Permit Granting Authority authorized to act under the applicable section of the Bylaw for compelling reasons of safety, aesthetics, or site design.

7.91 Parking space requirements under Section 7.0 may be modified when one or more of the following conditions are met to the satisfaction of the Permit Granting Board or Special Permit Granting Authority:

7.910 Peak parking needs generated by on-site uses occur at different times.

7.911 A significant number of employees, tenants, patrons or other parking users of the site are common to and shared by more than one use on the site.

7.912 A parking management plan approved by the Permit Granting Board or Special Permit Granting Authority is implemented with occupancy of the building or buildings. Said plan shall include the implementation of such measures as car and van pooling, bicycling and public transit use sufficient to reduce the need for parking. Periodic documentation of reductions in vehicle trips and parking utilization as a result of the parking management plan may be required as a condition of any permit granted under this section.

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7.911 A significant number of employees, tenants, patrons or other parking users of the site are common to and shared by more than one use on the site.

7.912 A parking management plan approved by the Permit Granting Board or Special Permit Granting Authority is implemented with occupancy of the building or buildings. Said plan shall include the implementation of such measures as car and van pooling, bicycling and public transit use sufficient to reduce the need for parking. Periodic documentation of reductions in vehicle trips and parking utilization as a result of the parking management plan may be required as a condition of any permit granted under this section.

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#### **Proposed language**

**Proposed revised amendment: (9/9/21)**

### **SECTION 7.9 WAIVERS**

7.90 Any section or subsection of Article 7.0, Parking Regulations, may be waived or modified by the Permit Granting Board or Special Permit Granting Authority authorized to act under the applicable section of the Bylaw for compelling reasons of safety, aesthetics, or site design.

7.91 Parking space requirements under Section 7.0 may be modified when one or more of the following conditions are met to the satisfaction of the Permit Granting Board or Special Permit Granting Authority:

7.910 Peak parking needs generated by on-site uses occur at different times.

7.911 A significant number of employees, tenants, patrons or other parking users of the site are common to and shared by more than one use on the site.

7.912 **The permit applicant conclusively demonstrates that the parking needs of current and future tenants will be provided for by the property owner and a parking management plan approved by the Permit Granting Board or Special Permit Granting Authority is implemented with occupancy of the building or buildings. Factors to demonstrate the parking needs of tenants may include: shared or leased parking bedroom count, number of tenants, local parking studies, local studies of mass transit and bicycle use, proximity to downtown, employment, medical services,**



food stores, retail shopping and bus stops, year-round bus schedules and maps, and available off-street parking. The parking management plan shall include the implementation of such measures as car and van pooling, bicycling, a guaranteed ride home, shared parking, and year-round public transit use sufficient to reduce the tenants' need for parking and a contingency plan if on-site parking is insufficient and needs to be provided. Periodic documentation of reductions in vehicle trips and parking utilization as a result of the parking management plan may be required as a condition of any permit granted under this section.

September 10, 2021 Revision

PROPOSED ZONING BYLAW AMENDMENTS

SECTION 3.325, MIXED-USE BUILDINGS

ARTICLE 12: DEFINITIONS

***Bold/Italic text*** indicates proposed new language.

~~**Bold/Strikethrough**~~ indicates proposed deleted removal.

ARTICLE 3 USE REGULATION

SECTION 3.3 USE CLASSIFICATION AND STANDARDS

SECTION 3.325 MIXED-USE BUILDING

- N = No, the Use is not permitted in that Zoning District  
SPR = The Use is permitted with Site Plan Review (See Section 11.2)  
SP = The Use is permitted with a Special Permit, by the Zoning Board of Appeals (see Section 10.3)

Zoning Districts													
R-O R-LD	R-N	R-VC	R-G	R-F	B-G	B-L	B-VC	B-N	COM	OP	LI	PRP	FPC
N	N	SP	N	N	SPR	SPR	SPR	SPR	SPR	N	N	N	N

Standards & Conditions:

~~A Mixed-use building shall be a building containing dwelling unit(s) in combination with permitted retail, business, institutional, government, public service, consumer service, office or similar principal use(s) and lawful accessory use(s).~~

~~A management plan, as defined in terms of form and content in the Rules and Regulations adopted by the Permit Granting Authority shall be included as an integral part of any application made under this section. In those Limited Business (B-L) Districts not abutting the B-G District, and in the Commercial (COM) District, a Special Permit from the Special Permit Granting Authority authorized to act under this section of the bylaw shall be required wherever proposed residential uses above the first floor exceed ten (10) dwelling units. The proposed use shall meet the criteria of Section 10.38 or Section 11.24, as applicable, with respect to the site and potential conflicts between the residential and commercial use(s).~~

~~In the Commercial (COM) District no dwelling unit nor any internal space associated with a dwelling unit shall occupy any first floor portion of a building facing onto a street, public plaza, or other space customarily used by the public. First floor residential dwelling units, and any required entries thereto, shall be located on the rear of buildings, adjacent to any required parking and private open space associated with and serving those units. No more than forty percent (40%) of the first floor Gross~~

Floor Area shall be used for residential purposes, which shall include not more than fifteen percent (15%) of said GFA associated with or incidental to, whether for storage, required entries, stair/elevator towers, or other purposes, any residential uses on upper floors.

No more than 60% of the Gross Floor Area of the first or ground floor shall be a combination of residential use or parking, including incidental and associated spaces, or a combination of the two uses, unless otherwise permitted below.

A minimum of At least 40% of the Gross Floor Area of the first or ground floor shall be any permitted non-residential use, other than parking, including incidental and associated spaces, except that the PGA may allow the required non-residential use(s) to be distributed on any floor, or in any building of a multiple building development on the same parcel, provided that the portion of the first or ground floor of any building facing the public way or walkways and areas customarily used by pedestrians and the public shall have-be occupied predominantly by such non-residential use(s).

Any dwelling units and enclosed parking on the first or ground floor shall be located at the rear of the building and designed to reduce visibility from the public way or walkways and areas customarily used by pedestrians and the public.

For sloping lots or lots with frontage on more than one right of way, the permit granting authority shall determine which floor(s) of the building is subject to the split of uses and criteria as mentioned above.

**Bedroom Count:** No more than 50% of the total number of dwelling units shall have the same bedroom count, with the exception of a Mixed-use building containing less than ten units. The Permit Granting Authority may waive or modify this requirement for projects in which all dwelling units provided are Affordable (see Article 12, Affordable Housing).

## ARTICLE 12 DEFINITIONS

Add the following language and renumber subsequent sections of Article 12:

**12.34 Mixed-use building:** Mixed-use building is a building containing one (1) or more dwelling unit(s) in combination with permitted non-residential uses in accordance in Article 3.

**Commented [JB1]:** The language as written could be interpreted to limit the total GFA of the combined uses, but not the uses individually.

**Commented [JB2]:** I read this to say that a 100,000 sq. ft. building or project must have at least 40,000 sq. ft. of non-residential, non-parking uses on the first or ground floor, but with the PGA's permission, the 40,000 sq. ft. may be located anywhere in the building or project, provided that in any building facing a public way/walkway, etc., the first/ground floor "shall have" the non-residential uses. Is that the intention?  
Question: In this latter situation, must the non-residential uses occupy the entire first/ground floor? Or only the areas visible from the public ways/walkways?  
The succeeding paragraph suggests the latter but this text does not say that. If that is the objective, I suggest making that clear. In my opinion, this could be accomplished by adding words to this effect at the end of the highlighted sentence: "facing the public way or walkways and areas customarily used by pedestrians and the public so as to block from public view any residential or parking spaces."

**Commented [BC3]:** Changes recommended in conversation with Joel Bard of KP Law and Rob Morra Building Commissioner 9-10-21

**Commented [HMJ4]:** This is an amendment that CRC voted to recommend the Town Council adopt, in addition to the entire proposed revision.

The Planning Board voted to recommend the Council adopt the proposed revision, without this amendment (they did not have it in front of them at the time).

Please have the attorney review the complete language recommended by CRC.